

COTTONWOOD HEIGHTS

RESOLUTION No. 2012-55

A RESOLUTION APPROVING AN INDEPENDENT CONTRACTOR AGREEMENT WITH PAVEMENT RESTORATION, INC. (2012-13 FISCAL YEAR)

WHEREAS, the city council (the "*Council*") of the city of Cottonwood Heights (the "*City*") met in regular session on 25 September 2012 to consider, among other things, approving an independent contractor agreement (the "*Agreement*") with Pavement Restoration, Inc. ("*PRP*") whereunder PRI would provide asphalt restoration/rejuvenation and related services for certain City-owned streets during the City's 2012-13 fiscal year; and

WHEREAS, the Council has reviewed the form of the Agreement, a photocopy of which is annexed hereto; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interests of the health, safety and welfare of the citizens of the City to approve the City's entry into the Agreement as proposed;

NOW, THEREFORE, BE IT RESOLVED by the Cottonwood Heights city council that the attached Agreement is hereby approved, and that the City's mayor and recorder are authorized and directed to execute and deliver the Agreement on behalf of the City.

This Resolution, assigned no. 2012-55, shall take effect immediately upon passage.

PASSED AND APPROVED effective 25 September 2012.

COTTONWOOD HEIGHTS CITY COUNCIL



By


Kelvin H. Cullimore, Jr., Mayor


Linda W. Dunlavy, Recorder

VOTING:

Kelvyn H. Cullimore, Jr.	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Michael L. Shelton	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
J. Scott Bracken	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Michael J. Peterson	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Tee W. Tyler	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>

DEPOSITED in the office of the City Recorder this 25th day of September 2012.

RECORDED this 26 day of September 2012.

585141.1

Independent Contractor Agreement

THIS INDEPENDENT CONTRACTOR AGREEMENT (this "*Agreement*") is entered into effective 25 September 2012 by and between **COTTONWOOD HEIGHTS**, a Utah municipality ("*City*") and **PAVEMENT RESTORATION, INC.**, a Florida corporation duly qualified to do business in the state of Utah ("*Contractor*").

RECITALS:

A. Contractor has significant experience in performing asphalt surface maintenance with an asphalt rejuvenating agent ("*Asphalt Rejuvenation*"). Contractor heretofore successfully has performed Asphalt Rejuvenation services for City and for a number of other municipalities in the western United States.

B. City is in need of additional Asphalt Rejuvenation services on certain of its public streets, and desires Contractor to perform such services as specified in this Agreement. Contractor desires to perform such services as requested by City.

C. The parties have determined that it is mutually advantageous to enter into this Agreement.

AGREEMENT:

NOW, THEREFORE, in consideration of the premises, the mutual covenants and undertakings of the parties hereto, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **Employment of Contractor.** City hereby engages Contractor, and Contractor hereby agrees, to perform all services necessary, customary or desirable to effect Asphalt Rejuvenation on City's public streets designated on attached exhibit "A," up to the maximum contract amount set forth in paragraph 3 below.

2. **Detailed Description of the Services.** In furtherance of this Agreement, Contractor shall do, perform, and carry out in a good, professional manner, Asphalt Rejuvenation services on the public streets designated on attached exhibit "A" in full compliance with City's standards, including, without limitation, the "Standard Specifications for Asphalt Surface Maintenance with an Asphalt Rejuvenation Agent" attached hereto as exhibit "B," as such standards may be modified from time to time by City or with City's prior written approval (the "*Services*").

3. **Fees for Services.** City shall pay Contractor for Services actually performed the sum of \$.1222 per square foot of pavement so rejuvenated; provided, however, that the maximum amount to be paid to Contractor for all Services performed under this Agreement shall not exceed \$96,866.

4. **Method of Payment.** Contractor shall submit monthly to City a detailed invoice describing the Services performed since the last monthly billing, and specifying the charges therefor computed as specified in this Agreement. Provided that the aggregate amount of all previous invoices and the current invoice does not exceed the total maximum compensation specified in section 3 hereof,

City shall pay (or provide a reasoned objection to) the amount set forth in the current invoice within thirty (30) days after receipt.

5. **Services Performed in a Professional, Reasonable Manner.** Contractor shall perform the Services in a professional, reasonable, responsive manner in compliance with all laws and applicable standards of performance. At least two weeks before commencing to perform Services on any particular street, Contractor shall provide a work schedule to City. Contractor shall provide reasonable advance notification to affected residents so as minimize inconvenience to residents attending Contractor's performance of the Services. Subject to the foregoing, the exact nature of how the Services are to be performed and other matters incidental to providing the Services shall remain with Contractor.

6. **Personnel, Equipment and Facilities.** Except as otherwise specified in this Agreement, Contractor shall at its sole cost furnish all supervision, personnel, labor, equipment, materials, supplies, communication facilities, vehicles for transportation and identification cards, and shall obtain all licenses and permits, necessary or incidental to performing any and all of the Services. Contractor shall not use City staff as a means to perform the Services in lieu of using Contractor's own staff.

7. **Term.** This Agreement shall be effective on the date hereof and shall terminate at 11:59:59 p.m. on 30 June 2013.

8. **Assignment and Delegation.** Contractor shall not assign or delegate the performance of its duties under this Agreement without City's prior written consent.

9. **Independent Contractor Status.** Contractor shall perform the Services as an independent contractor, and all persons employed by Contractor in connection herewith shall be employees or independent contractors of Contractor and not employees of City in any respect.

(a) **Control.** Contractor shall have complete control and discretion over all personnel providing Services hereunder.

(b) **Salary and Wages.** City shall not have any obligation or liability for the payment of any salaries, wages or other compensation to personnel providing Services hereunder.

(c) **No Employment Benefits.** All personnel providing Services are and shall be and remain Contractor's employees, and shall have no right to any City pension, civil service, or any other City benefits pursuant to this Agreement or otherwise.

10. **Termination.** Either party may terminate this Agreement upon 30 days prior written notice to the other party. Neither party shall have any liability to the other for damages nor other losses because of termination of this Agreement, provided; however, City shall pay Contractor all amounts due for actual work performed within the scope of Services, as specified herein.

11. **Indemnification.** Contractor shall defend, indemnify, save and hold harmless City (including, without limitation, its elected and appointed officers, employees, successors and assigns) from and against any and all demands, liabilities, claims, damages, actions and/or proceedings, in law

or equity (including reasonable attorneys' fees and cost of suit), relating to or arising in any way from the Services provided, or to be provided, hereunder. Contractor shall so defend, indemnify, save and hold harmless City whether such demands, liabilities, claims, damages, actions and/or proceedings are attributable to the simple negligence, gross negligence, recklessness or intentional misconduct of Contractor (or any officers, employees, agents, subcontractors, etc. of Contractor), or under any other applicable legal theory, and shall be effective whether or not such negligence, recklessness or other misconduct reasonably was foreseeable. Nothing herein shall, however, require Contractor to indemnify as provided in this section with respect to (a) City's own negligence or intentional misconduct, or (b) any demand, liability, claim, damage, action and/or proceeding not alleged to relate to the Services provided, or to be provided, by Contractor hereunder.

12. **Insurance.** Without limiting any indemnity or other obligations of Contractor hereunder, Contractor shall, prior to commencing work hereunder, secure and continuously thereafter (throughout the term of this Agreement) carry with insurers the following insurance coverage in policies which include provisions or endorsements naming City and its designees as an additional insured, and shall furnish proof thereof satisfactory to City prior to commencement of performance of the Services hereunder, and thereafter promptly when requested:

(a) **Commercial general liability insurance** coverage with a minimum single limit of \$1,000,000.00, with a deductible not to exceed \$5,000. The coverage shall include bodily injury and property damage liability coverage, contractual liability coverage, products and completed operations coverage, as well as coverage to protect against and from all loss by reason of injury to persons or damage to property, including Contractor's own workers and all third persons, property of City and all third parties based upon and arising out of the negligent performance of Contractor's operations hereunder, including the operations of its subcontractors of any tier.

(b) **Business automobile liability insurance** coverage with a minimum single limit of \$1,000,000.00 for bodily injury and property damage with respect to Contractor's vehicles whether owned, hired or non-owned, assigned to or used in the performance of the Services. Contractor may elect to not provide this coverage if no Contractor-owned or hired automobiles are used in performance of the Services, provided, however, that Contractor shall defend, indemnify and hold City harmless from any and all claims, damages, actions, proceedings, fees (including attorneys fees) and costs incurred by City arising from or in any way related to use of any automobile by Contractor or any of its employees, subcontractors or other related parties in performance of the Services.

(c) **Workers' compensation insurance** coverage as required by applicable workers' compensation and employer's liability statutes.

The foregoing insurance policies shall be through reputable, licensed insurers reasonably acceptable to City, and specifically shall provide that such insurance may not be terminated or reduced without at least thirty (30) days' prior written notice to City.

13. **Laws and Regulations.** Contractor shall at all times comply with all applicable laws, statutes, rules, regulations, and ordinances, including without limitation, those governing wages, hours, desegregation, employment discrimination, workers' compensation, employer's liability and safety.

Contractor shall comply with equal opportunity laws and regulations to the extent that they are applicable.

14. **Alcohol and Drug-Free Work Place.** All personnel during such time that they provide Services shall not be under the influence of alcohol, any drug, or combined influence of alcohol or any drug to a degree that renders the person incapable of safely providing the Services. Further, all personnel during such time that they provide Services shall not have sufficient alcohol in his body, blood, or on his breath that would constitute a violation of UTAH CODE ANN. § 41-6-44 or any measurable controlled substance in his body that would constitute a violation of UTAH CODE ANN. § 41-6-44.6.

15. **Non-Exclusive Rights.** Nothing in the Agreement is to be construed as granting to Contractor any exclusive right to perform any or all Services (or similar services) now or hereafter required by City.

16. **Conflict Resolution.** Except as otherwise provided for herein, any dispute between the parties regarding the Services which is not disposed of by agreement shall be decided by City, which shall provide written notice of the decision to Contractor. Such decision by City shall be final unless Contractor, within thirty (30) calendar days after such notice of City's decision, provides to City a written notice of protest, stating clearly and in detail the basis thereof. Contractor shall continue its performance of this Agreement during such resolution. If the parties do not thereafter agree to a mutually-acceptable resolution, then they shall resolve the dispute pursuant to section 17 below.

17. **Claims and Disputes.** Unresolved claims, disputes and other issues between the parties arising out of or related to this Agreement shall be decided by litigation in the Third Judicial District Court of Salt Lake County, Utah. Unless otherwise terminated pursuant to the provisions hereof or otherwise agreed in writing, Contractor shall continue to perform the Services during any such litigation proceedings and City shall continue to make undisputed payments to Contractor in accordance with the terms of this Agreement.

18. **Notices.** Any notice required or permitted to be given hereunder shall be deemed sufficient if given by a communication in writing and shall be deemed to have been received (a) upon personal delivery or actual receipt thereof, or (b) within three days after such notice is deposited in the United States Mail, postage prepaid, and certified and addressed to the parties as set forth below:

City: COTTONWOOD HEIGHTS
Attn. Mike Allen, Public Works Director
1265 East Fort Union Blvd., Suite 250
Cottonwood Heights, UT 84047

with a copy to: Wm. Shane Topham
CALLISTER NEBEKER & MCCULLOUGH
10 East South Temple, 9th Floor
Salt Lake City, UT 84133

Contractor: PAVEMENT RESTORATION, INC.
P.O. Box 1532
Boerne, TX 78006

19. **Additional Provisions.** The following provisions also are integral to this Agreement:

(a) **Titles and Captions.** All section or subsection titles or captions herein are for convenience only. Such titles and captions shall not be deemed part of this Agreement and shall in no way define, limit, augment, extend or describe the scope, content or intent of any part or parts hereof.

(b) **Pronouns and Plurals.** Whenever the context may require, any pronoun used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plurals and vice versa.

(c) **Applicable Law.** The provisions of this Agreement shall be governed by and construed in accordance with the laws of the state of Utah.

(d) **Integration.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof, and supersedes all prior agreements and understandings pertaining thereto.

(e) **Time.** Time is the essence hereof.

(f) **Survival.** All agreements, covenants, representations and warranties contained herein shall survive the execution of this Agreement and shall continue in full force and effect throughout the term of this Agreement.

(g) **Waiver.** No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such or any other covenant, agreement, term or condition. Any party may, by notice delivered in the manner provided in this Agreement, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of any other party. No waiver shall affect or alter the remainder of this Agreement but each and every other covenant, agreement, term and condition hereof shall continue in full force and effect with respect to any other then existing or subsequently occurring breach.

(h) **Rights and Remedies.** The rights and remedies of the parties hereto shall not be mutually exclusive, and the exercise of one or more of the provisions of this Agreement shall not preclude the exercise of any other provisions hereof.

(i) **Severability.** In the event that any condition, covenant or other provision hereof is held to be invalid or void, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other covenant or condition herein contained. If such condition, covenant

or other provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

(j) Litigation. If any action, suit or proceeding is brought by a party hereto with respect to a matter or matters covered by this Agreement, all costs and expenses of the prevailing party incident to such proceeding, including reasonable attorneys' fees, shall be paid by the non-prevailing party.

(k) Exhibits. All exhibits annexed to this Agreement are expressly made a part of this Agreement as though completely set forth herein. All references to this Agreement, either in this Agreement itself or in any of such writings, shall be deemed to refer to and include this Agreement and all such exhibits and writings.

(l) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

(m) Authorizations. Each person signing this Agreement represents and warrants that he is authorized to sign this Agreement for the party indicated.

DATED effective the date first-above written.

CITY:

ATTEST:

COTTONWOOD HEIGHTS

Linda W. Dunlavy, Recorder

By: _____
Kelvyn H. Cullimore, Jr., Mayor

CONTRACTOR:

ATTEST:

PAVEMENT RESTORATION, INC.,
a Florida corporation

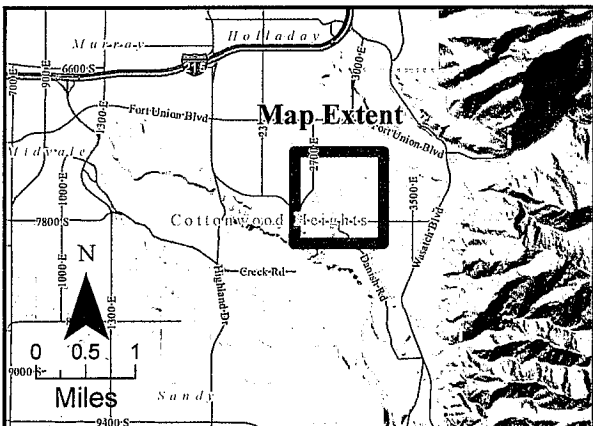
By: _____

By: _____
Rob Wiggins, President

585025.1

Exhibit “A” to
Independent Contractor Agreement

(Attach Color Copy of 2012-13 “Reclamite Treatment” Map of City Streets)



Reclamite Treatment 2012 - 2013



0 600 Feet

Legend

12-13 Maintenance
Reclamite

COTTONWOOD HEIGHTS RECLAMITE 2012 - 2013

Street Name	Type	Alt. Name	From	To	Length (Feet)	Width (Feet)	Area (Sq. Feet)	Area (Sq. Yard)	Cost	Imp. Type	PCI
BANBURY	RD	7420 S	2700	2739	277	35	9,710.00	1,080	\$ 1,186.78	Reclamite	97
BANBURY	RD	7420 S	2740	2779	259	35	9,070.00	1,010	\$ 1,108.56	Reclamite	97
BANBURY	RD	7420 S	2780	2859	502	35	17,560.00	1,950	\$ 2,146.22	Reclamite	97
BANBURY	RD	7420 S	2860	2899	283	35	9,910.00	1,100	\$ 1,211.22	Reclamite	97
BANBURY	RD	7420 S	2900	2979	569	35	19,920.00	2,210	\$ 2,434.67	Reclamite	97
BANBURY	RD	7420 S	2980	3034	365	35	12,780.00	1,420	\$ 1,562.00	Reclamite	97
BANBURY	RD	7420 S	3035	3079	276	35	9,670.00	1,070	\$ 1,181.89	Reclamite	97
BANBURY	RD	7420 S	3080	3145	776	35	27,160.00	3,020	\$ 3,319.56	Reclamite	97
BISCAYNE	DR	2975 E	7690	7724	262	25	6,550.00	750	\$ 800.56	Reclamite	62
BISCAYNE	DR	2975 E	7725	7800	565	25	14,120.00	1,570	\$ 1,725.78	Reclamite	62
BISCAYNE	DR	7550 S	2700	2729	198	25	4,940.00	550	\$ 603.78	Reclamite	62
BISCAYNE	DR	7550 S	2730	2739	87	25	2,160.00	240	\$ 264.00	Reclamite	62
BISCAYNE	DR	7550 S	2740	2779	221	25	5,530.00	610	\$ 675.89	Reclamite	62
BISCAYNE	DR	7550 S	2780	2859	549	25	13,740.00	1,530	\$ 1,679.33	Reclamite	60
BISCAYNE	DR	7550 S	2860	2939	521	25	13,040.00	1,450	\$ 1,593.78	Reclamite	62
BISCAYNE	DR	2980 E	7420	7479	503	25	12,570.00	1,400	\$ 1,536.33	Reclamite	62
BISCAYNE	DR	2980 E	7480	7489	166	25	4,140.00	460	\$ 506.00	Reclamite	62
BISCAYNE	DR	2980 E	7550	7579	160	25	3,990.00	440	\$ 487.67	Reclamite	62
BISCAYNE	DR	2980 E	7579	7579	115	25	2,870.00	320	\$ 350.78	Reclamite	60
BISCAYNE	DR	7510 S	3030	3046	154	36	5,540.00	620	\$ 677.11	Reclamite	62
BISCAYNE	DR	7510 S	3039	3054	96	36	3,450.00	380	\$ 421.67	Reclamite	62
BISCAYNE	DR	7510 S	3050	3067	162	36	5,850.00	650	\$ 715.00	Reclamite	62
BISCAYNE	DR	3080 E	7420	7469	395	36	14,210.00	1,580	\$ 1,736.78	Reclamite	60
BISCAYNE	DR	3080 E	7470	7509	357	36	12,840.00	1,430	\$ 1,569.33	Reclamite	62
BISCAYNE	DR	3080 E	7510	7549	286	36	10,280.00	1,140	\$ 1,256.44	Reclamite	60
BISCAYNE	DR	3080 E	7550	7574	188	36	6,770.00	750	\$ 827.44	Reclamite	62
BISCAYNE	DR	3080 E	7575	7609	277	36	9,960.00	1,110	\$ 1,217.33	Reclamite	62
BISCAYNE	DR	3080 E	7610	7679	511	36	18,390.00	2,040	\$ 2,247.67	Reclamite	62
BISCAYNE	DR	3080 E	7680	7724	267	36	9,600.00	1,070	\$ 1,173.33	Reclamite	60
BISCAYNE	DR	3080 E	7725	7774	320	36	11,520.00	1,280	\$ 1,408.00	Reclamite	62
BISCAYNE	DR	2660 E	7665	7715	214	26	5,570.00	620	\$ 680.78	Reclamite	66
BISCAYNE	DR	7665 S	2880	2929	317	25	7,920.00	880	\$ 968.00	Reclamite	66
BISCAYNE	DR	7665 S	2930	2969	285	25	7,120.00	790	\$ 870.22	Reclamite	62
BISCAYNE	DR	7665 S	2970	2979	137	25	3,430.00	380	\$ 419.22	Reclamite	62
BISCAYNE	DR	7665 S	2980	2999	149	25	3,720.00	410	\$ 454.67	Reclamite	62
BISCAYNE	DR	7665 S	3000	3025	240	25	6,010.00	670	\$ 734.56	Reclamite	63
BISCAYNE	DR	2930 E	7612	7655	302	36	10,860.00	1,210	\$ 1,327.33	Reclamite	62
BISCAYNE	DR	7630 S	2700	2809	515	43	22,120.00	2,460	\$ 2,703.56	Reclamite	62
BISCAYNE	DR	7630 S	2810	2873	380	25	9,500.00	1,060	\$ 1,161.11	Reclamite	62
BISCAYNE	DR	2740 E	7420	7464	269	25	6,730.00	750	\$ 822.56	Reclamite	62
BISCAYNE	DR	2740 E	7465	7504	277	25	6,940.00	770	\$ 848.22	Reclamite	62
BISCAYNE	DR	2740 E	7505	7549	284	25	7,100.00	790	\$ 867.78	Reclamite	62
BISCAYNE	DR	2860 E	7550	7577	204	31	6,310.00	700	\$ 771.22	Reclamite	58
BISCAYNE	DR	7465 S	2740	2850	713	25	17,810.00	1,980	\$ 2,176.78	Reclamite	62
BISCAYNE	DR	2860 E	7420	7464	228	25	5,710.00	630	\$ 697.89	Reclamite	62
BISCAYNE	DR	7470 S	3060	3099	266	34	9,050.00	1,010	\$ 1,106.11	Reclamite	60
BISCAYNE	DR	7470 S	3100	3105	57	34	1,930.00	210	\$ 235.89	Reclamite	61
BISCAYNE	DR	2880 E	7630	7659	202	29	5,860.00	650	\$ 716.22	Reclamite	62
BISCAYNE	DR	2880 E	7660	7744	705	29	20,460.00	2,270	\$ 2,500.67	Reclamite	66
BISCAYNE	DR	7590 S	2904	2966	524	25	13,100.00	1,460	\$ 1,601.11	Reclamite	62
BISCAYNE	DR	3020 E	7550	7589	326	25	8,150.00	910	\$ 996.11	Reclamite	63
BISCAYNE	DR	7725 S	2900	2975	380	31	11,790.00	1,310	\$ 1,441.00	Reclamite	62
BISCAYNE	DR	7745 S	2730	2799	528	24	12,670.00	1,410	\$ 1,548.56	Reclamite	63
BISCAYNE	DR	7745 S	2800	2881	691	24	16,570.00	1,840	\$ 2,025.22	Reclamite	83
BISCAYNE	DR	3100 E	7500	7626	878	25	21,960.00	2,440	\$ 2,684.00	Reclamite	62

COTTONWOOD HEIGHTS RECLAMITE 2012 - 2013

Reel Name	Type	Alt. Name	From	To	Length (Feet)	Width (Feet)	Area (Sq. Feet)	Area (Sq. Yard)	Cost	Imp. Type	PCI
SILVER LAKE	DR	7775 S	3020	3086	394	25	9,860.00	1,100	\$ 1,205.11	Reclamite	62
SILVER LAKE	DR	7623 S	3050	3086	259	25	6,470.00	720	\$ 790.78	Reclamite	62
SILVER LAKE	DR	3085 E	7625	7779	919	25	22,980.00	2,550	\$ 2,808.67	Reclamite	62
SOLITUDE	DR	3000 E	7590	7668	621	25	15,520.00	1,720	\$ 1,896.89	Reclamite	66
TEFFENSEN	DR	2730 E	7597	7629	152	40	6,090.00	680	\$ 744.33	Reclamite	62
TEFFENSEN	DR	2730 E	7630	7714	830	43	35,690.00	3,970	\$ 4,362.11	Reclamite	62
TEFFENSEN	DR	2730 E	7715	7744	188	41	7,690.00	850	\$ 939.89	Reclamite	66
TEFFENSEN	DR	2730 E	7745	7800	367	40	14,680.00	1,630	\$ 1,794.22	Reclamite	66
STONE	RD	7480 S	2940	2980	259	25	6,480.00	720	\$ 792.00	Reclamite	63
STONE	RD	3035 E	7420	7509	729	25	18,230.00	2,030	\$ 2,228.11	Reclamite	62
STONE	RD	3035 E	7510	7569	503	25	12,580.00	1,400	\$ 1,537.56	Reclamite	62
TOWNE	DR	7715 S	2613	2639	268	25	6,690.00	740	\$ 817.67	Reclamite	83
TOWNE	DR	7715 S	2640	2679	259	25	6,480.00	720	\$ 792.00	Reclamite	60
TOWNE	DR	7715 S	2680	2730	324	25	8,100.00	900	\$ 990.00	Reclamite	86
TOWNE	CIR	2640 E	7715	7778	496	30	14,870.00	1,650	\$ 1,817.44	Reclamite	52
TWIN LAKE	CIR	2970 E	7626	7670	247	34	8,410.00	930	\$ 1,027.89	Reclamite	62
VESTERLING	WAY	7505 S	2740	2899	1180	25	29,500.00	3,280	\$ 3,605.56	Reclamite	62
VESTERLING	WAY	2900 E	7420	7466	239	25	5,990.00	670	\$ 732.11	Reclamite	62
792,540									\$ 96,866.00		
88,080									\$ 96,866.00		

Exhibit "B" to
Independent Contractor Agreement

(Attach Copy of Standard Specifications)

ASPHALT REJUVENATING AGENT

I. Scope:

This work shall consist of furnishing all labor, material, and equipment necessary to perform all operations for the application of an asphalt rejuvenating agent to asphaltic concrete surface courses. The rejuvenation of surface courses shall be by spray application of a cationic rejuvenating agent composed of petroleum oils and resins emulsified with water. All work shall be in accordance with the specifications, the applicable drawings, and subject to the terms and conditions of this contract.

II. Material Specifications:

The asphalt rejuvenating agent shall be an emulsion composed of a petroleum resin oil base uniformly emulsified with water. Each bidder must submit with his bid a certified statement from the asphalt rejuvenator manufacturer showing that the asphalt rejuvenating emulsion conforms to the required physical and chemical requirements.

SPECIFICATIONS

Tests	Test Method		Requirements	
	ASTM	AASHTO Min.	Max.	
Tests on Emulsion:				
Viscosity @ 25°C, SFS	D-244	T-59	15	40
Residue, % W ¹	D-244 (Mod.)	T-59 (Mod)	60	65
Miscibility Test ²	D-244 (Mod.)	T-59 (Mod)	No Coagulation	
Sieve Test, %W ³	D-244 (Mod.)	T-59 (Mod)	-	0.1
Particle Charge Test	D-244	T-59	Positive	
Percent Light Transmittance ⁴	GB	GB	-	30
Tests on Residue from Distillation:				
Flash Point, COC, °C	D-92	T-48	196	-
Viscosity @ 60°C, cSt	D-445	-	100	200
Asphaltenes, %w	D-2006-70	-	-	1.00
Maltene Dist. Ratio	D-2006-70	-	0.3	0.6
$\frac{PC + A_1^5}{S + A_2}$				
PC/S Ratio ⁵	D-2006-70	-	0.5	-
Saturated Hydrocarbons, S ⁵	D-2006-70	-	21	28

¹ ASTM D-244 Modified Evaporation Test for percent of residue is made by heating 50 gram sample to 149 C (300 F) until foaming ceases, then cool immediately and calculate results.

² Test procedure identical with ASTM D-244-60 except that .02 Normal Calcium Chloride solution shall be used in place of distilled water.

³ Test procedure identical with ASTM D-244 except that distilled water shall be used in place of two percent sodium oleate solution.

⁴ Test procedure is attached.

⁵ Chemical composition by ASTM Method D-2006-70:

PC = Polar Compounds, A₁ = First Acidaffins
A₂ = Second Acidaffins, S = Saturated Hydrocarbons

III. Material Performance:

The rejuvenating agent shall have a record of at least five years of satisfactory service as an asphalt rejuvenating agent and in-depth sealer. Satisfactory service shall be based on the capability of the material to decrease the viscosity and increase the penetration value of the asphalt binder as follows. The viscosity shall be reduced by a minimum of 45 percent and the penetration value shall be increased by a minimum of 25 percent. Testing shall be performed on extracted asphalt cement from a pavement to a depth of three eighths inch (3/8"). In addition, the pavement shall be in-depth sealed to the intrusion of air and water.

The bidder must submit with his bid the manufacturer's certification that the material proposed for use is in compliance with the specification requirements. The bidder must submit with his bid previous use documentation and test data conclusively demonstrating that; the rejuvenating agent has been used successfully for a period of five years by government agencies such as Cities, Counties, etc; and that the asphalt rejuvenating agent has been proven to perform, as heretofore required, through field testing by government agencies as to the required change the in asphalt binder viscosity and penetration number. Testing data shall be submitted indicating such product performance on a sufficient number of projects, each being tested for a minimum period of three years to insure reasonable longevity of the treatment, as well as product consistency.

RECLAMITE®, manufactured by Tricor Refining, LLC. is a product of known quality and accepted performance.

IV. Applicator Experience:

The asphalt-rejuvenating agent shall be applied by an experienced applicator of such material. The bidder shall have a minimum of three years experience in applying the product proposed for use. He must submit with his bid a list of five projects on that which he applied said rejuvenator. He shall indicate the project dates, number of square yards treated in each and the name and phone number of the government official in charge of each project.

A project superintendent knowledgeable and experienced in application of the asphalt-rejuvenating agent must be in control of each day's work. The bidder shall submit a written experience outline of the project superintendent.

V. PRODUCT STANDARDS AND ALTERNATES:

The product "Reclamite"®, as manufactured by Tricor Refining, LLC. for the asphalt rejuvenating agent is the standard for these specifications and the prices quoted on the Bid Sheet Base Bid shall be for this standard. Should a bidder wish to submit a bid for alternates to the Standard, said prices shall be entered on the BID SHEET as the "Alternate Bid" for each item. In the event that the bidder submits no bid for the Standard, only the "Alternate Bids" should be completed.

Bidders may offer an ALTERNATE for the Standard specified in the Specifications provided the bidder adheres to the following and submits same with his bid.

(a) List the proposed alternate on the BID SHEET form giving the product name and price.

(b) Furnish complete specifications and descriptive literature for the alternate as well as a one-gallon sample of the material proposed for use. Such descriptive and detailed information shall be complete and at least equal in detail to the city's requirements for the standard item for which the alternate is offered.

(c) Submit a current Material Safety Data Sheet for the alternate materials. The City will give the alternate consideration. The Contractor may furnish only those alternate items included in his proposal and approved by the City prior to award of a contract.

If no ALTERNATE is indicated on the BID SHEET, the Contractor shall furnish the STANDARD (brand) specified in the attached specifications. Should the ALTERNATE offered be found unacceptable by the City based on the data submitted with the bid and no bid is entered on the BID SHEET for the Standard, then said bid will be considered non-responsive.

VI. APPLICATION TEMPERATURE/WEATHER LIMITATIONS:

The temperature of the asphalt rejuvenating emulsion, at the time of application shall be as recommended by the manufacturer. The asphalt-rejuvenating agent shall be applied only when the existing surface to be treated is thoroughly dry and when it is not threatening to rain. The asphalt-rejuvenating agent shall not be applied when the ambient temperature is below 40° F.

VII. HANDLING OF ASPHALT REJUVENATING AGENT:

Contents in tank cars or storage tanks shall be circulated at least forty-five minutes before withdrawing any material for application. When loading the distributor, the asphalt rejuvenating agent concentrate shall be loaded first and then the required amount of water shall be added. The water shall be added into the distributor with enough force to cause agitation and thorough mixing of the two materials. To prevent foaming, the discharge end of the water hose or pipe shall be kept below the surface of the material in the distributor that shall be used as a spreader. The distributor truck will be cleaned of all of its asphalt materials, and washed out to the extent that no discoloration of the emulsion may be perceptible. Cleanliness of the spreading equipment shall be subject to the approval and satisfaction of the Engineer.

VIII. RESIDENT NOTIFICATION:

The contractor shall distribute by hand, a typed notice to all residences and businesses on the street to be treated. The notice will be delivered no more than 24 hours prior to the treatment of the road. The notice will have a local phone number that residents may call to ask questions. The notice shall be of the door hanger type that secures to the door handle of each dwelling. Unsecured notices will not be allowed. The contractor shall also place the notice on the windshield of any parked cars on the street. Hand distribution of this notice will be considered incidental to the contract.

IX. APPLYING EQUIPMENT:

The distributor for spreading the emulsion shall be self-propelled, and shall have pneumatic tires. The distributor shall be designed and equipped to distribute the asphalt rejuvenating agent uniformly on variable widths of surface at readily determined and controlled rates from 0.05 to 0.5 gallons per square yard of surface, and with an allowable variation from any specified rate not to exceed 5 percent of the specified rate.

Distributor equipment shall include full circulation spray bars, pump tachometer, volume measuring device and a hand hose attachment suitable for application of the emulsion manually to cover areas inaccessible to the distributor. The distributor shall be equipped to circulate and agitate the emulsion within the tank.

A check of distributor equipment as well as application rate accuracy and uniformity of distribution shall be made when directed by the Engineer.

The truck used for sanding shall be equipped with a spreader that allows the sand to be uniformly distributed onto the pavement. The spreader shall be able to apply 1/2 pound to 3 pounds of sand per square yard in a single pass. The spreader shall be adjustable so as not to broadcast sand onto driveways or treelawns.

The sand to be used shall be free flowing, without any leaves, dirt, stones, etc. Any wet sand shall be rejected from the job site.

Any equipment that is not maintained in full working order, or is proven inadequate to obtain the results prescribed, shall be repaired or replaced at the direction of the Engineer.

X. APPLICATION OF REJUVENATING AGENT:

The asphalt-rejuvenating agent shall be applied by a distributor truck at the temperature recommended by the manufacturer and at the pressure required for the proper distribution. The emulsion shall be so applied that uniform distribution is obtained at all points of the areas to be treated. Distribution shall be commenced with a running start to insure full rate of spread over the entire area to be treated. Areas inadvertently missed shall receive additional treatment as may be required by hand sprayer application.

Application of asphalt rejuvenating agent shall be on one-half width of the pavement at a time. When the second half of the surface is treated, the distributor nozzle nearest the center of the road shall overlap the previous application by at least one-half the width of the nozzle spray. In any event the centerline construction joint of the pavement shall be treated in both application passes of the distributor truck.

Before spreading, the asphalt rejuvenating agent shall be blended with water at the rate of two (2) parts rejuvenating agent to one (1) part water, by volume or as specified by the manufacturer. The combined mixture of asphalt rejuvenating agent and water shall be spread at the rate of 0.05 to 0.10 gallons per square yard, or as approved by the Engineer following field testing.

Where more than one application is to be made, succeeding applications shall be made as soon as penetration of the preceding application has been completed and the Engineer grants approval for additional applications.

Grades or super elevations of surfaces that may cause excessive runoff, in the opinion of the Engineer, shall have the required amounts applied in two or more applications as directed.

After the rejuvenating emulsion has penetrated, a coating of dry sand shall be applied to the surface in sufficient amount to protect the traveling public as required by the Engineer.

The Contractor shall furnish a quality inspection report showing the source, manufacturer, and the date shipped, for each load of asphalt rejuvenating agent. When directed by the Engineer, the Contractor shall take representative samples of material for testing.

XI. STREET SWEEPING:

The Contractor shall be responsible for sweeping and cleaning of the streets prior to, and after treatment.

Prior to treatment, the street will be cleaned of all standing water, dirt, leaves, foreign materials, etc. This work shall be accomplished by hand brooming, power blowing or other approved methods. If in the opinion of the Engineer the hand cleaning is not sufficient than a self-propelled street sweeper shall be used.

All sand used during the treatment must be removed no later than 48 hours after treatment of the street. This shall be accomplished by a combination of hand and mechanical sweeping. All turnouts, cul-de-sacs, etc. must be cleaned of any material to the satisfaction of the Engineer. Street sweeping will be included in the price bid per square yard for asphalt rejuvenating agent.

If, after sand is swept and in the opinion of the Engineer a hazardous condition exists on the roadway, the contractor must apply additional sand and sweep same no later than 24 hours following reapplication. No additional compensation will be allowed for reapplication and removal of sand.

XII. TRAFFIC CONTROL:

The Contractor shall schedule his operations and carry out the work in a manner to cause the least disturbance and/or interference with the normal flow of traffic over the areas to be treated. Treated portions of the pavement surfaces shall be kept closed and free from traffic until penetration, in the opinion of the Engineer, has become complete and the area is suitable for traffic.

When, in the opinion of the Engineer, traffic must be maintained at all times on a particular street, then the Contractor shall apply asphalt rejuvenating agent to one lane at a time. Traffic shall be maintained in the untreated lane until the traffic may be switched to the completed lane.

The Contractor shall be responsible for all traffic control and signing required to permit safe travel. The contractor shall notify the police and fire departments as to the streets that are to be treated each day if applicable.

If, in the opinion of the Engineer, proper signing is not being used, the Contractor shall stop all operations until safe signing and barricading is achieved.

XIII. METHOD OF MEASUREMENT:

Asphalt rejuvenating agent will be measured by the square yard as provided for in the Contract Documents.

XIV. BASIS FOR PAYMENT:

The accepted quantities, measured as provided for above, will be paid for at the contract unit price for asphalt rejuvenating agent.

Asphalt rejuvenating agent shall be paid for PER SQUARE YARD, which shall be full compensation for furnishing all materials; equipment, labor and incidentals to complete the work as specified and required.